

Appl. No. 09/915,865

Attorney Docket No. 2009-174 (81841.0155)

Amdt. Dated May 2, 2005

Customer No. 26021

Reply to Final Office Action of November 30, 2004

**REMARKS/ARGUMENTS:**

Claim 7 is amended. Claims 7-14 are pending in the application. Reexamination and reconsideration of the application, as amended, are respectfully requested.

**CLAIM REJECTIONS UNDER 35 U.S.C. § 102:**

Claims 7-14 stand rejected under 35 U.S.C. §102(b) as being anticipated by Layne et al. (U.S. Patent 5,968,731 A). The Applicant respectfully traverses this rejection.

Claim 7, as amended, is as follows:

An apparatus for mechanical control of an automated immunochemistry or chemistry instrument which has a multiplicity of subsystems for performing immunochemistry or chemistry assays, the apparatus for mechanical control comprising:

a mechanical control system having both object-orient features and real-time features for control of the operations of the multiplicity of subsystems; wherein the subsystems operate on, transform, or transfer passengers; and

a passenger template base class comprising facilities configured for passenger creation, destruction, enumeration and state recovery.

The Applicant respectfully submits that Layne cannot anticipate claim 7 because Layne fails to teach a passenger template base class comprising facilities configured for passenger creation, destruction, enumeration and state recovery.

The Examiner, in the Advisory Action dated March 29, 2005, states,

"The recited 'facilities' feature appears to be equivalent to the software architecture of the object-oriented software control

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mechanism employed by the computer (e.g., process control tools 124 or 128) of the Layne et al. apparatus (see col. 8, line 13 – col. 15, line 56; figure 5). The additional claim recitation regarding that the facilities are to provide for passenger creation, destruction, enumeration and state recovery is considered a process or intended use limitation, which describes how the facilities are intended to operate or function, and thus use the claimed apparatus, which does not further delineate the structure of the claimed apparatus from that of the prior art.”

The Applicant respectfully disagrees. The Applicant believes “comprising facilities for passenger creation, destruction, enumeration and state recovery” represent specific structural limitations. These are specific structural limitations provided by the “object-oriented” software. (Applicant’s specification, at page 11, lines 5-14). However, in order to expedite the prosecution of the instant application, the Applicant further amended claim 7 to further clarify that the passenger template base class comprises facilities configured for passenger creation, destruction, enumeration and state recovery.

Layne cannot make claim 7 obvious. Layne has no teaching or suggestion of a passenger template base class comprising facilities configured for passenger creation, destruction, enumeration and state recovery. It is the discovery of the present invention that the object-oriented mechanical control method and system of the present invention “know” the respective types of the passengers, the respective locations of the passengers with the automated immunochemistry instrument and its subsystems, and the respective states of the passengers. (Applicant’s specification, at page 27, lines 6-9). The passenger template base class allows for the polymorphic nature of the passengers. For an automated immunochemistry instrument, such passengers may include; empty vessels, sample vessels, reacting vessels, dilution vessels, reagent packs, samples, and sample tube racks.

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(Applicant's specification, at page 26, line 22-page 27, line 5). For example, the present invention allows for empty vessels to be transformed into sample vessels when a patient sample is added to them. (Applicant's specification, at page 27, lines 10-12). Thus, the present invention offers the advantage that a passenger template base class allows the types and states of the passengers to be known.

In light of the foregoing, Applicant respectfully submits that Layne could not have anticipated or rendered obvious claim 7, because Layne fails to teach or suggest each and every claim limitation. Claims 8-14 depend from claim 7 and cannot be anticipated or rendered obvious for at least the same reasons as claim 7. Withdrawal of these rejections is thus respectfully requested.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 337-6851 to discuss the steps necessary for placing the application in condition for allowance.

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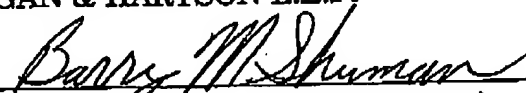
If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,

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Date: May 2, 2005

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